

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES DURHAM,

Defendant Below,
Appellant,

v.

STATE OF DELAWARE,

Defendant Below,
Appellee.

No. 163, 2006

Court Below: Superior Court
of the State of Delaware in and
for New Castle County

Cr. ID No. 9412006225

ORDER

This 19th day of September 2006, it appears to the Court that on August 10, 2006, the Clerk of this Court issued a notice to show cause why this appeal should not be dismissed pursuant to Supreme Court Rule 29(b) for the appellant's failure to diligently prosecute the appeal by not filing his opening brief and appendix. The appellant has failed to respond to the notice to show cause within the required ten-day period; therefore, dismissal of this action is deemed to be unopposed.

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to Supreme Court Rules 3(b) and 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Myron T. Steele

Chief Justice